

DEPARTAMENTO DE EDUCACIÓN MUNICIPAL Y
ASUNTOS A LA JUVENTUDHon. Luis Arroyo Chiqués
AlcaldeSra. Ninotshka Ramos Rivera
Directora

February 18, 2014

Received & Inspected

FFR 21 2014

FCC Mail Room

VIA ELECTRONIC FILINGMs. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554**Re: Consolidated Appeal of USAC Notification of Commitment Adjustment Letter
CC Docket No. 02-6**

Applicant Name:	Biblioteca Publica Aguas Buenas
Billed Entity Number:	199610
Funding Year	2010
Form 471 App. Number:	743213
Funding Request Numbers:	2006963, 2006987, 2006886, 2006925, 2007006 2006941

Dear Ms. Dortch:

Biblioteca Publica Aguas Buenas ("Applicant"), acting pursuant to Sections 54.719-54.721 of the Commission's rules¹, hereby timely files this Request for Review ("Appeal"). The Appeal requests Commission review of the adverse decision of the Administrator of the Universal Service Administrative Company ("USAC") seeking rescission and/or recovery of previously awarded or disbursed E-rate support funds to Applicant for Funding Year 2010.¹

The COMAD recites the following identical Funding Commitment Adjustment Explanation in the case of each Funding Request Number ("FRN") for which rescission and/or recovery is sought, claiming that in two respects Applicant failed to comply with applicable Puerto Rico procurement requirements for the services for which support was provided:

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"After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. On the FY 2010 FCC Form 470, you certified that you reviewed and complied with all FCC, state and local procurement/competitive bidding requirements. During an audit, it was determined that you failed to comply with all FCC, state and local procurement/competitive bidding requirements. This determination was based on the auditors finding that applicant is required to publish notice of the bid in one newspaper of general circulation at least 10 days prior to the bid. The applicant also did not provide documentation that a certified mail notice was sent to providers not awarded the bid. The applicant did not show that he had knowledge of state, local and E-rate competitive bid requirements. FCC rules require that the applicant submits a bona fide request for services by conducting internal assessments of the components necessary to use effectively the discounted services ordered, and by submitting a complete description of services requested so that it may be posted for competing providers to evaluate and certify to certain criteria under penalty of perjury. Since you failed to comply with local and state procurement laws, you violated the competitive bidding process. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant."

Applicant respectfully submits that USAC has erred in issuing this COMAD, seeking recovery of a total of \$21,960.16 in already disbursed E-Rate support and rescission of an additional \$10,035.08 in such support in connection with the referenced FRNs.

Applicant further respectfully submits that USAC's justification for the COMAD is based on a misreading and misapplication of the applicable Puerto Rican statutory and regulatory provisions. The services subject to E-Rate support under the FRNs did not require publication of a notice of the bid in a newspaper of general circulation at least 10 days prior to the bid. Nor was a certified mail notice required to be sent to providers not awarded the bid. The Ley de Municipios Autonomos ("Autonomous Municipality Law"), which applies to the procurement of the services at issue, does not require such publication and certified mail notice because the services are considered "professional services" under that statute and are exempt from those requirements.

Further, even if these requirements did apply, the procurement involved must be for in excess of \$100,000. Autonomous Municipality Law, Section 10.001. The Applicant's share of the cost of the services, and its payment obligations under the applicable contract, under all of the referenced FRNs collectively was substantially less than \$100,000.

Finally, the Applicant posted the relevant FCC Form 470 and waited the necessary 28 days before executing the contract and conducted a fair and open competitive bidding process in accordance with the FCC's E-Rate Program rules. Vendors to participate in this procurement process are to be USAC service providers (with SPIN) that uses USAC web site for potential

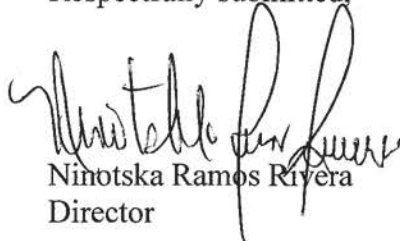
clients requesting proposals. Thus, the Applicant complied with USAC's and the local purchasing rules and procedures that were applicable to the services in question. The publication of Form 470 is in fact a public notice to potential qualified vendors.

Even if there was a technical violation of the E-Rate Program rules, the circumstances of this case warrant a waiver of the rules. All bidders were on a level playing field. There is no evidence that the Applicant acted other than in good faith and no evidence of intent to defraud and abuse the E-Rate Program or waste such support. Requiring the Applicant to remit the E-Rate support already disbursed would work a genuine hardship on the Applicant. In the end the Applicant selected the most cost effective bidder. These circumstances fully satisfy the requirement for good cause to waive the FCC's rules.

For all the foregoing reasons, the Applicant submits that the COMAD should be rescinded and all USAC recovery efforts should be ceased.

Resurrection reserves the right to further supplement this Appeal with a fuller discussion of the facts, Resurrection's position and supporting arguments.

Respectfully submitted,



Ninotska Ramos Rivera
Director